

Docket No. F-6863

Ser. No. 09/786,098

REMARKS

Claims 1-31 are pending and in the Office Action of May 26, 2005, the Examiner finalized the restriction requirement so that claims 11-21 and 26 have been examined for patentability. Claims 11-21 and 26 have been amended herein.

The Examiner has rejected Claim 11 under 35 U.S.C. § 102(b) as being anticipated by Kloke (U.S. Patent No. 4,621,472). Claims 12-21 and 26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kloke as modified by McMaster et al. (U.S. Patent No. 5,215,608). In response to the rejections, Applicant provides the referenced amendments and the following traverse.

Kloke discloses a glazing system in which a structure comprising a plurality of different interlinked structural elements provides an open frame work for supporting glass panels in structural situations such as skylights and glass walls. The structure of Kloke is intended to be used to fill and cover an opening in another structural form such as a roof or wall of a building.

The Examiner refers to hinge means being located at the ends of the elongate members 18 of the Kloke disclosure. However, the Examiner has not identified the structure in Kloke that provides the hinge function. Furthermore,

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Applicant asserts that the elongate members 18 in Kloke are rafters and are intended to be rigidly fixed into the structure.

The Examiner also references the elongate metal strap 35 of Kloke and equates this strap with the fastener element of claim 16. However, item 35 in Kloke is described as a pressure plate which is associated with a compressible dry seal element 36. Kloke fails to indicate that the strips 35 are used to attach the support structure to a roof. Furthermore, given the nature of the structure in Kloke, such an arrangement is not possible as the elements to which the strip 35 is attached exist over a void in wall or roof of a building. Applicant also respectfully disagrees with the suggestion that the pressure plate 35 of the Kloke disclosure includes a plurality of holes to allow adjustable connection. Specifically, the pressure plate in the Kloke extends in only one location, in the length of the underlying member to which it is connected, and the underlying member includes a slot into which screws are received. Accordingly, cooperation between spaced holes in the pressure plate 35 and the underlying member (eg. item 18 in Figure 6) does not require the alignment of holes. Further, the pressure plate 35 does not transmit a lateral force.

The Examiner suggests that the elongate metal strips 35 of Kloke is screwed to an attachment clip 87. Applicant respectfully disagrees. The attachment clip 87 of Kloke is used to join crossing elements of the support

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structure and not to connect the compression plate 35 which is used to hold down the glass.

Based on the differences between the claimed invention and Kloke, Applicant respectfully asserts that the claims are patentable over Kloke and that the rejection is improper. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) ("a claim is anticipated only if each and every element as set forth in the claim" is found in the cited prior art reference).

Regarding the rejection under section 103, Applicant asserts that claims 12-21 and 26 are patentable along with Claim 11 so that the rejection has been obviated. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 234 F.3d 558 (Fed. Cir. 2000) (a claim that depends from a prior claim incorporates all the limitations of that claim).

In view of the Examiner's objections, however, Applicant has amended claims 11, 12 and 15 to further clarify the scope of the invention. In particular, Claim 11 now refers to a unitary support element for solely and individually supporting a panel. This is contrasted with Kloke which discloses a plurality of different support elements which must be assembled into a support structure. Further, in Kloke, the glass panels are clamped into position with clamping strips 35 and there is no suggestion that the method of attachment of the panel includes any hinging action. The purpose of the present invention is to allow

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attachment of panels, such as solar panels, to a roof in a modular manner which enables a neat and uniform arrangement of the panels in juxtaposition across the roof surface, while allowing different panel configurations to be achieved depending on the shape of the roof and the number of panels to be mounted.

Accordingly, Applicant asserts that the prior art relied upon by the Examiner fails to anticipate the claims as now amended.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

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If there is any fee(s) due, the USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

Respectfully submitted,
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